

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

FILED
U.S. DIST. COURT
BRUNSWICK DIV.

2006 JAN 19 P 2:45

RICHARD E. STONE,

Plaintiff,

vs.

CIVIL ACTION NO.: CV205-248

MICHAEL CHERTOFF, Secretary
DEPARTMENT OF HOMELAND
SECURITY, Agency,

Defendant.

CLERK 
U.S. DIST. CT. OF GA.

ORDER

I. **Eligibility to proceed on appeal *in forma pauperis***

Plaintiff has filed with this Court a motion to proceed on appeal *in forma pauperis*. Under 28 U.S.C. § 1915(a) (1)-(2), the prisoner must submit the following:

- (1) an affidavit including a statement of the prisoner's assets and a declaration that the prisoner is unable to pay the filing fees and
- (2) a certified copy of the trust fund account statement for the six-month period immediately preceding the filing of the notice of appeal.

These documents must be submitted even if the prisoner was permitted to proceed *in forma pauperis* in the district court. Pursuant to 28 U.S.C. § 1915 and Fed. R. App. P. 24(a), this Court hereby

___ **GRANTS** the motion to proceed *in forma pauperis* on appeal;

x **DENIES** the motion to proceed *in forma pauperis* on appeal for the following reason(s):

___ (1) This Court **CERTIFIES** that the appeal is not taken in good faith because _____

___ (2) The prisoner has failed to submit the affidavit required by 28 U.S.C. § 1915(a)(1).

- (3) The prisoner has failed to submit the trust fund account statement required by 28 U.S.C. § 1915(a)(2).
- X Other: The appeal is frivolous and without merit. Decisions of the United States Magistrate Judge are appealable to a District Judge, not the Court of Appeals.

II. Installment Payment Provisions

Even if the prisoner is granted permission to proceed on appeal *in forma pauperis*, the prisoner is still required to pay the Court's filing fees. Pursuant to 28 U.S.C. § 1915 (b) (1), the prisoner is required to sign and return to the Clerk of this Court the **CONSENT FORM** which authorizes payment of the required \$255.00 appellate filing fee from his or her prison account to the district court. A copy of this form is enclosed with the Plaintiff's service copy of this Order.

III. Transcripts of Proceedings

- X This Court will not presently require the preparation of a transcript or the payment therefor by the United States. To the extent that a transcript of any portion of the District Court proceedings is required, the Court of Appeals may more economically direct which proceedings it requires to be transcribed.
- The Court Reporter shall transcribe the proceedings as requested by the party proceeding *in forma pauperis* and the United States shall bear the expense.

SO ORDERED, this 19th day of January, 2006.

Anthony A. Albino
JUDGE, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA